

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7602

BILL NUMBER: HB 1626

NOTE PREPARED: Jan 8, 2003

BILL AMENDED:

SUBJECT: Methamphetamine.

FIRST AUTHOR: Rep. Mahern

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- 1) The bill makes the possession of one or more chemical reagents or precursors with the intent to manufacture methamphetamine a Class C felony.
- 2) The bill increases the penalty to a Class B felony if the person also possesses a firearm or is within 1,000 feet of a school, public park, housing complex, or youth center while committing the crime.
- 3) The bill prohibits the possession of ephedrine, pseudoephedrine, or phenylpropanolamine with intent to manufacture methamphetamine.
- 4) The bill establishes a rebuttable presumption that a person (with certain exceptions) who possesses more than 24 grams of ephedrine, pseudoephedrine, or phenylpropanolamine intends to manufacture methamphetamine.
- 5) The bill prohibits the sale of chemical reagents or precursors to a methamphetamine or other controlled substance manufacturer.
- 6) The bill makes it a Class C felony for a person to purchase or rent a laboratory location for a methamphetamine lab, or to use a vehicle to manufacture methamphetamine, and requires the person to provide restitution for the costs of cleaning up the illegal laboratory.
- 7) The bill provides a sentence enhancement of five years if a person manufactures methamphetamine in the presence of a child.

Effective Date: July 1, 2003.

Explanation of State Expenditures: *Amended Felony Offenses* - Currently, a person who possesses two or more chemical reagents or precursors with intent to manufacture methamphetamine commits a Class D

felony. Under the bill, a person possessing one chemical reagent or precursor with intent to manufacture would be guilty of the Class C felony, or a Class B felony for also possessing a firearm or being within 1,000 feet of a school, public park, housing complex, or youth center. In 2001, there were 11 offenders committed to state correctional facilities for the Class D felony concerning reagents, but there are no data available to indicate how many more offenders may be convicted if the number of chemical reagents or precursors possessed changes from two to one. To the extent that offenders subject to a Class C or Class B felony may on average have a longer average length of stay than those convicted of a Class D felony, costs for incarceration could increase.

New Felony Offenses - The bill would create three new felony offenses; (1) a Class D felony for selling, transferring, distributing, or furnishing chemical reagents or precursors, knowing or intending that the recipient will use them to manufacture methamphetamines or other controlled substances, (2) a Class C felony for possession of ephedrine, pseudoephedrine, phenylpropanolamine, or salts, isomers, or salts of isomers of these substances (the crime would be enhanced to a Class B felony if the offender had a firearm, was within 1,000 feet of a school, or was in a public park, family housing complex, or youth program center), and (3) a Class C felony for procuring a laboratory location or using a vehicle to manufacture methamphetamines. Additionally, an additional fixed term of 5 years may be imposed if the court or jury finds the person committed an offense involving manufacture of methamphetamines in the presence of a child. There are no data available to indicate how many offenders may be convicted of the felonies created under this proposal.

Penalties and Expenditures - Depending on the mitigating and aggravating circumstances, a Class B felony is punishable by a prison term ranging from 6 to 20 years, a Class C felony is punishable by a prison term ranging from 2 to 8 years, and a Class D felony is punishable by a prison term ranging 6 months to 3 years or reduction to Class A misdemeanor. The average length of stay in Department of Correction (DOC) facilities for all Class B felony offenders is approximately 3.7 years, for all Class C felony offenders is approximately 2 years, and for all Class D felony offenders is approximately 10 months.

The average expenditure to house an adult offender was \$25,087 in FY 2001. Individual facility expenditures ranged from \$18,520 to \$54,465. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner.

Explanation of State Revenues: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for all classes of felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law

enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs Association, Department of Correction.

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